

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

TONY LAMAR PINKARD, SR.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:07-CV-70-MEF
)	[WO]
)	
CRAIG DAVIDSON,)	
)	
Defendant.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

This case is pending before the court on a civil complaint filed by Tony Lamar Pinkard, Sr. ["Pinkard"], an inmate, in which he challenges actions taken against him during his confinement at the Randolph County Jail. In a separate case recently filed by the plaintiff, *Pinkard v. Melton, et al.*, Case No. 3:07-CV-735-WKW, this court entered an order, a copy of which the Clerk mailed to Pinkard. This order could not be delivered because Pinkard no longer resided at the address he had provided for service in the instant cause of action. The order of procedure entered in this case instructed Pinkard that he must immediately inform the court of any new address. *Order of January 24, 2007 - Court Document No. 4* at 5. Since Pinkard obviously failed to comply with this requirement, the court entered an order requiring that on or before September 6, 2007 Pinkard show cause why this case should not be dismissed for his failure to inform the court of his present

address. *Order of August 27, 2007 - Court Doc. No. 18*. The court specifically cautioned Pinkard that his failure to comply with the directives of this order would result in a recommendation that this case be dismissed. *Id.* The plaintiff has filed nothing in response to the August 27, 2007 order. The court therefore concludes that this case is due to be dismissed.

CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to properly prosecute this action and his failure to comply with the orders of this court. It is further

ORDERED that on or before June 16, 2008 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the

District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 2nd day of June, 2008.

/s/ Wallace Capel, Jr
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE